

Disclaimer: This checklist is for use by DEP in reviewing Notices of Activity and Use Limitation (AULs), and may not be relied upon for any other purpose. This checklist is not a comprehensive list of AUL requirements, which are fully set forth in M.G.L. c. 21E and 310 CMR 40.0000. Completion of this checklist by DEP does not constitute a final agency decision, and does not create any legal rights or relieve any party of obligations that exist pursuant to applicable laws.

Form: AUL-1995C



AUL AUDIT CHECKLIST

Checklist for Notice of Activity and Use Limitation -- Form 1075 (July 28, 1995 – May 29, 1997)

CERTIFIED COPY OF FORM 1075				Citation(s) 310 CMR . . .	Comments
1	Has DEP received a <u>certified</u> copy of the AUL with proof of recording/registration, ie. is Registrar's stamp on the document, indicating it is certified? (If yes, check one of the options below): ___ AUL marked with a Registry stamp indicating an Instrument Number ___ AUL marked with a Registry stamp indicating a Book and Page Number ___ AUL marked with a Land Registration stamp indicating a Land Registration Document Number	Y	N	40.1056(2)(f) 40.1074(3)	
2	Is the Property registered land or unregistered land?	Registered	Un-registered		
REQUIREMENTS FOR SUBMITTING NOTICE OF AUL -- TRANSMITTAL FORM 113				Citation(s)	Comments
3	Was Transmittal Form 113 submitted with the AUL Notice? (If no, skip to question # 28)	Y	N	40.0009(4)	
4	Is the Release Tracking Number for the Disposal Site identified?	Y	N	40.0009(4)	
5	Is the Disposal Site name identified?	Y	N	40.0009(4)	
6	Is the address of the Disposal Site identified?	Y	N	40.0009(4)	
7	Is the address of the Property subject to AUL identified, if different from the address of the Disposal Site?	Y	N	Not applicable	40.0009(4)
8	Is a box checked to indicate what Form is being submitted?	Y	N	40.0009(4)	
9	Does the Transmittal Form identify the date the AUL was recorded or registered?	Y	N	40.0009(4)	
10	Does the Transmittal Form indicate the name of the Registry or Land Registration Office where the AUL was recorded or registered?	Y	N	40.0009(4)	
11	Does the Transmittal Form identify the Instrument Number (unregistered land), and/or Book and Page Number (unregistered land), and/or Land Court Document Number (registered land) of the AUL?	Y	N	40.0009(4)	
12	Is the name of the person/organization submitting the Transmittal Form identified?	Y	N	40.0009(4)	
13	Is the name of a contact person identified, if Transmittal Form 113 is submitted by an organization?	Y	N	Not applicable	40.0009(4)
14	Is the address of the person/organization submitting Transmittal Form 113 identified?	Y	N	40.0009(4)	
15	Is the telephone number of the person/organization submitting Transmittal Form 113 identified?	Y	N	40.0009(4)	
16	Is the fax number of the person/organization submitting Transmittal Form 113 identified?	Y	N	40.0009(4)	
17	Is the name of the Property Owner(s) identified, if different from person/organization submitting Transmittal Form?	Y	N	Not applicable	40.0009(4)

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TRANSMITTAL FORM 113, cont.						Citation(s)	Comments
18	Is the address of the Property Owner(s) identified, if different from person/organization submitting Transmittal Form?	Y	N	Not applicable		40.0009(4)	
19	Is the telephone number of the Property Owner(s) identified, if different from person/organization submitting Transmittal Form?	Y	N	Not applicable		40.0009(4)	
20	Is the fax number of the Property Owner(s) identified, if different from person/organization submitting Transmittal Form?	Y	N	Not applicable			
21	Is a box checked indicating the relationship of the person submitting Transmittal Form 113 to the Disposal Site?	Y	N			40.0009(4)	
22	Is the Transmittal Form signed and certified by person submitting Transmittal Form?	Y	N			40.0009(3)	
23	Is the signature dated?	Y	N			40.0009(4)	
24	Is the signature dated on or after (not before) the date the AUL was recorded or registered?	Y	N			40.0009(3)	
25	Is the address of the person providing certification identified, if not already provided earlier in the Transmittal Form?	Y	N	Not applicable		40.0009(4)	
26	Is the telephone number of the person providing certification identified, if not already provided earlier in the Transmittal Form?	Y	N	Not applicable		40.0009(4)	
27	Is the fax number of the person providing certification identified, if not already provided earlier in the Transmittal Form?	Y	N	Not applicable		40.0009(4)	
REQUIREMENTS FOR COMPLETING FORM 1075						Citation(s)	Comments
28	Is the Form's boilerplate unaltered, except where alterations are allowed through bracketed language?	Y	N			40.1074(1)(a) 40.1075	
29	If the boilerplate is inappropriately altered, attach a copy of the Form with alterations highlighted.	Done		Not applicable			
30	Is the Disposal Site name identified?	Y	N			40.1074(1)(a) 40.1074(2)(c) 40.1075	
31	Is the DEP Release Tracking Number(s) identified?	Y	N			40.1074(1)(a) 40.1074(2)(c) 40.1075	
32	Is the date of the AUL identified?	Y	N			40.1074(1)(a) 40.1075	
33	Is the name of the Property Owner identified, in the following locations? ____ Paragraph 1* (see note, below) ____ Paragraph 2 ____ Paragraph 20	Y	N			40.1074(1)(a) 40.1074(2)(b) 40.1075	

* NOTE: For purposes of auditing Notices of Activity and Use Limitation (AULs), numbers have been arbitrarily assigned to each paragraph of Form 1075 (as published in the 7/28/1995 Massachusetts Register), as indicated on the attached unofficial copy of Form 1075. These paragraph references are intended for use solely by DEP staff and contractors during audits of AULs, and are not to be cited or relied on for any other purpose.

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REQUIREMENTS FOR COMPLETING FORM 1075, cont.					Citation(s)	Comments
34	Is name of Property Owner consistent in all locations?	Y	N		40.1074(2)(b)	
35	If Owner is a corporation, is the state of incorporation identified?	Y	N	Not applicable	For information only; not required	
36	Is the address of the Property Owner identified, in the following locations? ___ Paragraph 1 ___ Paragraph 2 (Town, County & State) ___ Paragraph 20	Y	N		40.1074(1)(a) 40.1075	
37	Is address of Property Owner consistent in all locations?	Y	N		40.1074(1)(a) 40.1075	
38	Does the form indicate, through use of bracketed language, whether land is vacant or improved?	Y	N	Unclear	40.1074(1)(a) 40.1075	
39	Is the address of the Property subject to the AUL identified (City/Town & County)?	Y	N		40.1074(1)(a) 40.1074(2)(a)1 40.1075	
40	Is reference made to a survey plan of the Property? (If yes, indicate the form of reference below) ___ "Registered/recorded herewith" ___ Registry of Deeds, Plan Book & Plan Number ___ Land Court Plan Number	Y	N		40.1074(1)(a) 40.1074(2)(a)2.a 40.1074(2)(a)2.b 40.1075	
41	Is optional Paragraph #4 included (indicating AUL applies only to a Portion of the Property) or omitted (indicating AUL applies to entire Property)? (Circle one)	Included		Omitted	40.1074(1)(a) 40.1075	
42	Is bracketed language selected in the following locations, indicating whether the AUL applies to the entire Property or only a Portion of the Property (check all that apply)? ___ Paragraph 5(twice) ___ Paragraph 6 ___ Paragraph 8 ___ Paragraph 9 ___ Paragraph 10 ___ Paragraph 11 ___ Paragraph 13	Y	N		40.1074(1)(a) 40.1074(2)(a) 40.1075	
43	Is bracketed language indicating Property/Portion of Property consistent in all locations?	Y	N		40.1074(2)(a)	
44	Does the AUL apply to the entire Property, or only a Portion of the Property?	All	Part	Unclear		

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REQUIREMENTS FOR COMPLETING FORM 1075, cont.					Citation(s)	Comments
45	If only a Portion of the Property is subject to the AUL: Is reference made to a survey plan of the Portion subject to the AUL? (If yes, indicate the form of reference below) <input type="checkbox"/> Plan "to be recorded/registered herewith" <input type="checkbox"/> Registry of Deeds, Plan Book & Plan Number <input type="checkbox"/> Land Court Plan Number	Y	N	Not applicable	40.1074(1)(a) 40.1074(2)(a)3.a 40.1074(2)(a)3.b 40.1075	
46	Is bracketed language selected in the following locations, indicating whether the area subject to the AUL comprises all of the Disposal Site or only a Portion? <input type="checkbox"/> Paragraph 5 <input type="checkbox"/> Paragraph 6	Y	N		40.1074(1)(a) 40.1075	
47	Is bracketed language indicating Entire Disposal Site/Portion of Disposal Site consistent in all locations?	Y	N		40.1074(1)(a) 40.1075	
48	Does the area subject to the AUL comprise the entire Disposal Site, or only a Portion?	All	Part	Unclear		
49	Is reference made to a sketch plan, attached as Exhibit B, showing the relationship of the Disposal Site to the Property or Portion of Property subject to the AUL?	Y	N		40.1074(1)(a) 40.1074(2)(a)4 40.1075	
50	Does the Form include the date of the AUL Opinion?	Y	N		40.1074(1)(a) 40.1075	
51	Is bracketed language selected in the following locations, indicating whether purpose of AUL is to maintain a condition of No Significant Risk (NSR), or to maintain a condition of No Substantial Hazard (NSH)? <input type="checkbox"/> Paragraph 8 <input type="checkbox"/> Paragraph 10 <input type="checkbox"/> Paragraph 11	Y	N		40.1074(1)(a) 40.1075	
52	Is bracketed language indicating NSR/NSH consistent in all locations?	Y	N		40.1074(1)(a) 40.1075	
53	Is the purpose of the AUL to maintain a condition of NSR, or to maintain a condition of NSH?	NSR	NSH	Unclear		
54	Does the Form include a description of permitted activities and uses?	Y	N		40.1074(1)(a) 40.1074(2)(d) 40.1075	
55	If yes, is the description of permitted activities and uses written in a clear and understandable manner?	Y	N		40.1074(2)(d)	
56	Does the Form include a description of inconsistent activities and uses?	Y	N		40.1074(1)(a) 40.1074(2)(f) 40.1075	

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REQUIREMENTS FOR COMPLETING FORM 1075, cont.				Citation(s)	Comments
57	If yes, is the description of inconsistent activities and uses written in a clear and understandable manner?	Y	N		40.1074(2)(f)
58	Does the Form include a description of obligations and conditions?	Y	N		40.1074(1)(a) 40.1074(2)(e) 40.1075
59	If yes, is the description of obligations and conditions written in a clear and understandable manner?	Y	N		40.1074(2)(e)
60	Is the Form signed by the Property Owner?	Y	N		40.1074(1)(a) 40.1074(2)(i) 40.1075
61	Is the Owner's signature an authorized and binding signature? (If yes, check one of the options below) <input type="checkbox"/> Sole ownership: signed by sole owner <input type="checkbox"/> Joint ownership: signed by all owners <input type="checkbox"/> Trust: Signed in accordance with requirements established by the trust document <input type="checkbox"/> Corporation: Certificate of incumbency AND (Check one) <input type="checkbox"/> Signed by President and Treasurer <input type="checkbox"/> Signed by President and Assistant Treasurer <input type="checkbox"/> Signed by Vice President and Treasurer <input type="checkbox"/> Signed by Vice President and Assistant Treasurer <input type="checkbox"/> Signed by other officer(s) authorized by vote of the Board of Directors, with vote authorizing said officer(s) attached to Form <input type="checkbox"/> Other (explain): _____ _____ _____	Y	N	Unclear	40.1074(2)(i)
62	Is the Owner's signature dated?	Y	N		40.1074(1)(a) 40.1075
63	Is the Owner's signature properly notarized, ie. are each of the following requirements met? <input type="checkbox"/> All signatures are individually notarized <input type="checkbox"/> State and county of notary are identified <input type="checkbox"/> Owner is named in notary block <input type="checkbox"/> Notary signature is present <input type="checkbox"/> Notary signature is dated <input type="checkbox"/> Commission expiration date is identified <input type="checkbox"/> Commission is not expired at time of notarization <input type="checkbox"/> Notary seal or stamp is included (required for out-of-state notary; not required for Massachusetts notary)	Y	N		40.1074(1)(a) 40.1074(2)(i) 40.1075
64	Is the Form signed by an LSP?	Y	N		40.1074(1)(a) 40.1074(2)(i) 40.1075

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REQUIREMENTS FOR COMPLETING FORM 1075, cont.				Citation(s)	Comments
65	Is the LSP's signature dated?	Y N		40.1074(1)(a) 40.1075	
66	Is the LSP's signature dated on or after (not before) the date of owner's signature? (Enter dates below): Date of LSP's signature _____ Date of Owner's signature _____	Y N			
67	Is LSP's signature sealed with LSP stamp?	Y N		40.1074(1)(a) 40.1074(2)(i) 40.1075	
68	Is the LSP's signature properly notarized, ie. are each of the following requirements met? ___ State and county of notary are identified ___ LSP is named in notary block ___ Notary signature is present ___ Notary signature is dated ___ Commission expiration date is identified ___ Commission is not expired at time of notarization ___ Notary seal or stamp is included (required for out-of-state notary; not required for Massachusetts notary)	Y N		40.1074(1)(a) 40.1074(2)(i) 40.1075	
REQUIRED ATTACHMENTS TO FORM 1075					
EXHIBITS A, A1, A2				Citation(s)	Comments
69	Is a legal description of the parcel subject to the AUL (either a running description or a bounding description) attached as Exhibit A? (Check one): ___ Running (metes & bounds) description (unregistered land) ___ Bounding description (registered land)	Y N		40.1074(2)(a)2	
70	If only a Portion of the parcel is subject to the AUL, is a legal description of that Portion (running description) attached as Exhibit A-1?	Y N	Not applicable	40.1074(2)(a)3	
71	If Property is registered and only a Portion of the Property is subject to the AUL, is an 8.5" x 11" survey plan of the restricted Portion attached as Exhibit A-2 or otherwise attached?	Y N	Not applicable	40.1074(2)(a)3.a	
72	If the Property is registered, and only a Portion of the Property is subject to the AUL, and an 8 ½" x 11" survey plan of the Portion is attached as Exhibit A-2 or otherwise attached, does the description of the Portion subject to the AUL (Exhibit A-1) conform to the survey plan?	Y N	Not applicable	40.1074(2)(a)3	
EXHIBIT B				Citation(s)	Comments
73	Is a sketch plan attached as Exhibit B?	Y N		40.1074(2)(a)4	
74	Does the sketch plan clearly illustrate the relationship of the area subject to the AUL to the boundaries of the Disposal Site?	Y N		40.1074(2)(a)4	
75	Is the sketch plan consistent with the Form (e.g. if the Form indicates that only a Portion of the Property is restricted, does the sketch plan conform)?	Y N		40.1074(2)(a)4	

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EXHIBIT C				Citation(s)	Comments
76	Is a LSP Opinion, in narrative form, attached as Exhibit C?	Y	N	40.1056(1)(f) 40.1056(2)(h) 40.1074(1)(b)	
77	Is the LSP Opinion signed?	Y	N	40.0015(1)	
78	Is LSP's signature dated?	Y	N	40.0015(1)	
79	Is LSP's seal included?	Y	N	40.0015(1)	
EXHIBIT D				Citation(s)	Comments
80	Is Transmittal Form 114 attached as Exhibit D or otherwise attached?	Y	N	40.0009(4) 40.1074(1)(b)	
81	Is the Release Tracking Number of the Disposal Site identified?	Y	N	40.0009(4)	
82	Is the Disposal Site name identified?	Y	N	40.0009(4)	
83	Is the address of the Disposal Site identified?	Y	N	40.0009(4)	
84	Is the address of the Property subject to AUL identified, if different than the address of the Disposal Site?	Y	N	Not applicable	40.0009(4)
85	Is a box checked to indicate what Form the AUL Opinion supports?	Y	N	40.0009(4)	
86	Is the name of the LSP identified?	Y	N	40.0009(4)	
87	Is the LSP's license number identified?	Y	N	40.0009(4)	
88	Is the LSP's telephone number identified?	Y	N	40.0009(4)	
89	Is the LSP's fax number identified?	Y	N	40.0009(4)	
90	Is Transmittal Form 114 signed by the LSP?	Y	N	40.0009(3)	
91	Is the LSP's signature dated?	Y	N	40.0009(4)	
92	Is the LSP's seal included?	Y	N	40.0009(4)	
93	If Transmittal Form 114 indicates that a response action on which the LSP Opinion is based is subject to an EPA or DEP permit, order, or approval, is a statement describing the provisions thereof attached to the Transmittal Form?	Y	N	Not applicable	40.0009(4)
CONSISTENCY OF FORMS, ATTACHMENTS & PLANS				Citation(s)	Comments
94	Do the permitted uses in the Form match those in the LSP Opinion (Exhibit C)?	Y	N	40.1056(2)(g)	
95	Do the inconsistent uses in the Form match those in the LSP Opinion (Exhibit C)?	Y	N	40.1056(2)(g)	
96	Do the conditions and obligations in the Form match those in the LSP Opinion (Exhibit C)?	Y	N	40.1056(2)(g)	
97	Are the Form's descriptions of permitted activities, inconsistent activities, and obligations and conditions consistent with each other?	Y	N	40.1056(2)(g)	
98	Is the date of the LSP Opinion (Exhibit C) consistent with the AUL Opinion date listed in the Form?	Y	N		
99	Is the date of the AUL Document (paragraph 1) consistent with the date of the Owner's signature in the signature block (paragraph 16)?	Y	N		

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PUBLIC NOTICE REQUIREMENTS					Citation(s)	Comments
100	Was evidence submitted that a copy of the Form was forwarded to the local officials listed below within 30 days of being recorded or registered? <input type="checkbox"/> Chief Municipal Officer <input type="checkbox"/> Board of Health <input type="checkbox"/> Zoning Official <input type="checkbox"/> Building Code Enforcement Official	Y	N		40.1090(1) 40.1403(7)(a)	
101	Was evidence submitted that notice of the AUL was published in a local newspaper within 30 days of being recorded or registered?	Y	N		40.1090(1) 40.1403(7)(b)	
102	If yes, did the published notice include the following? <input type="checkbox"/> The name, address, and RTN of the disposal site <input type="checkbox"/> The type of Activity and Use Limitation (ie. Notice of Activity and Use Limitation) <input type="checkbox"/> Information about where the AUL and site file can be reviewed <input type="checkbox"/> The name, address and phone number of the person recording the AUL	Y	N	Not applicable	40.1090(1); 40.1403(7)(b)	
REQUIREMENTS FOR RECORDING/REGISTERING FORM 1075					Citation(s)	Comments
103	Was the AUL recorded at the Registry of Deeds and/or registered at the Land Registration Office?	Y	N		40.1074(3)	
104	Was the certified Registry copy of the Form forwarded to DEP within 30 days of being recorded or registered?	Y	N		40.1074(3)	
105	Was the Form current at the time it was registered or recorded? If not, which version of the Form should have been used? _____	Y	N		40.1074(1)(a) 40.1075	
REQUIREMENTS FOR RECORDING/REGISTERING FORM 1075, cont. (questions which may require research at Registry of Deeds and/or Land Registration Office)					Citation(s)	Comments
106	Is the AUL marginally referenced on the deed into the Owner of the Property?	Y	N		40.1074(3)	
107	If land is unregistered: Was a survey plan of the Property containing the area subject to the AUL recorded as a Plan with the Registry of Deeds prior to or with the recording of the AUL? (if yes, obtain a copy of the plan)	Y	N	Not applicable	40.1074(2)(a)2.a 40.1074(2)(a)2.b	
108	If yes, does the legal description of the Property containing the area subject to the AUL (Exhibit A) conform to the survey plan of the Property?	Y	N	Not applicable	40.1074(2)(a)2	
109	If land is unregistered and only a Portion of the Property is subject to the AUL: Was a survey plan of the Portion recorded as a Plan with the Registry of Deeds prior to or with the recording of the AUL? (if yes, obtain a copy of the plan)	Y	N	Not applicable	40.1074(2)(a)3.a 40.1074(2)(a)3.b	
110	If yes, does the legal description of the Portion (Exhibit A-1) conform to the survey plan of the Portion?	Y	N	Not applicable	40.1074(2)(a)3	
111	If land is registered, obtain a copy of the Land Court Plan of the Property containing the area subject to the AUL, on file at the Land Registration Office.	Done		Not applicable		
112	If land is registered, does the legal description of the Property containing the area subject to the AUL(Exhibit A) conform to the Land Court Plan of the Property?	Y	N	Not applicable	40.1074(2)(a)2	

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REQUIREMENTS FOR RECORDING/REGISTERING FORM 1075, cont. (questions which may require research at Registry of Deeds and/or Land Registration Office)					Citation(s)	Comments
113	If land is registered, and only a Portion of the Property is subject to the AUL, and an 8 ½" x 11" survey plan of the Portion is not attached as an Exhibit: Was a survey plan of the Portion recorded as a Plan with the Registry of Deeds prior to or with the recording of the AUL? (if yes, obtain a copy of the plan)	Y	N	Not applicable	40.1074(2)(a)3.a 40.1074(2)(a)3.b	
114	If yes, does the legal description of the Portion (Exhibit A-1) conform to the survey plan of the Portion?	Y	N	Not applicable	40.1074(2)(a)3	
COMMENTS						